

HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.28500 of 1996

Dated: 23-11-2006

Between:

R. Ramakrishna Reddy

... Petitioner

AND

Mandal Revenue Officer,
Peddapanjani,
Chittoor District and others.

... Respondents

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ORDER :

This writ petition has been instituted seeking directions to the respondents not to interfere with the peaceful possession and enjoyment of the petitioner in respect of the fishing rights in Sy.No.116/4 - Paimash Nos.114, 87 and 88 of Medikunta Tank of an extent of Ac.6-06 cents; Sy.No.105/2 – Paimash Nos.27 and 36 of Alagalakunta tank of an extent of Ac.19-02 cents and Sy.No.130/1 – Paimash No.17 of Muddanapalle tank of an extent of Ac.31-35 cents of Bommarajupalle villagae, Peddapanjani Mandal, Chittoor District.

It is the case of the writ petitioner that the former Zamindar of Punganur has allotted the fishing rights in the tanks situated in the aforesaid survey numbers in favour of the grand-father of the writ petitioner and that ever since they have been carrying on the said right uninterruptedly. On that basis this writ petition has been instituted. It has also been asserted by the writ petitioner that on an earlier occasion, the then Tahsildar of Punganur had directed the writ petitioner and the other family members to produce the original patta for verification and return and that in obedience of the said command of the Tahsildar, they did produce the original patta for verification. But however, the Tahsildar did not show the courtesy of returning those original pattas after verification. Even by the account of the writ petitioner, this is an event that had taken place in the year 1965. Such

averments and incidents are hardly capable of being adjudicated upon in a proceeding brought about under Article 226 of the Constitution of India, as by their very nature, they are contentious and disputed questions of fact.

This apart, Smt. Sofia Begum, the learned Assistant Government Pleader for Revenue, asserts that in the survey and settlement operations, which were carried out belonging to this area, the lands falling in Sy.Nos.105/2, 116/4 and 130/1 are all classified as tank *poramboke* lands, and thus, vested in the Government. She also asserts that the tank in question itself is a minor irrigation tank having a huge extent of Ayacut of

Ac.4,552-60 spread over several villages, situated in and around the locality in question. It is, thus, pleaded on behalf of the respondents that in the absence of any credible piece of evidence to establish the right of the writ petitioner, to go about fishing in these tanks, the Revenue administration is right in preventing any such expeditions to be undertaken by the writ petitioner. If the writ petitioner still prefers to assert his rights over the land or the fishery rights in the tanks in question, it is open to him to agitate about the same in a properly constituted civil suit, but the proceedings under Article 226 of the Constitution of India are ill-suited for the said purpose.

The writ petition is accordingly dismissed. No costs.

NOOTY RAMAMOHANA RAO, J

23-11-2006
Msr.

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(Msr)

